

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 92-1026 & 92-1027
Sales and Use Taxes
Calendar Years 1989, 1990, and 1991

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ISSUE(S)

I. **Tax Administration** – Application of Payment and Collection

Authority: IC 6-8.1-8-1.5; IC 6-8.1-8-2(d); 45 IAC 15-8-1

Taxpayer protests the application of payments and states it was penalized twice.

STATEMENT OF FACTS

Taxpayer, in a telephone conference hearing states the department has charged it twice for penalty, interest, overpayments and interest.

The department and various departmental employees have explained to the taxpayer its liabilities on many occasions, to no avail, therefore a hearing was conducted to allow the department to write its letter of findings in order to resolve the file.

Taxpayer has not provided additional evidence, that the audit assessment is in error but has again stated that the department is in error regarding application of payment, charging twice for penalty and interest.

I. **Tax Administration** – Application of Payments and Collection

DISCUSSION

At issue is whether the taxpayer's payments were correctly applied and whether interest and penalty was charged twice.

Taxpayer failed to remit tax due for April 1989 and October 1990 and had taxable discrepancies either plus or minus in some of the months in each year of the audit. In 1991, due to a new computer system, taxpayer remitted tax more timely and accurately.

Taxpayer made monthly late payments before an audit was conducted some of which incurred penalties and collection fees. The taxpayer feels it was double penalized because the audit also assessed a penalty.

The department recognizes that the taxpayer paid penalties before an audit was in place. However, the penalty assessed in the audit is for the balance due shown on the audit report and not for each monthly payment or non-payment. On June 7, 1996 the taxpayer was sent a calculation for the audits which amounted to \$1790.50 in tax due for control no. 226666-00 and 5,612.58 for control no. 330961-04. The calculations took the taxable dollar amount, multiplied it by the rate of tax, i.e. 5%, deducted the payments, added back the penalty and interest included in the payments, and added or deducted the collection allowance.

Taxpayer's brief states it was audited for years 1992 through 1995 by the Internal Revenue Service and Indiana Department of Employment. Both found sales listed twice and bad debts for which credits are due. None pertain to the Department of Revenue nor years at issue and will not be addressed. Taxpayer is advised to file amended tax returns for those years.

The taxpayer has not provided proof that the Department is in error.

FINDING

Taxpayer's protest is denied.